



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. Trespass after warning to leave</p> <p>4. Trespass after warning to stay off</p> <p>5. Disturbance of domestic animals by trespassers with dog, firearm, or vehicle</p>	<p>6. Discharge of firearm on private land</p> <p>7. Failure to shut gate</p> <p>8. Obligation to give name</p> <p>9. Proceedings under sections 5, 6, 7, and 8 (3)</p> <p>10. Cancellation of firearms registration or permit</p> <p>11. Savings</p> <p>12. Repeals</p>
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1968, No. 52

An Act to effect reforms in the law relating to trespass

[11 December 1968]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Trespass Act 1968.

(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-nine.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Aircraft” has the same meaning as in the Civil Aviation Act 1964:

“Disturb”, in relation to any domestic animal, means to disturb the animal to an extent which is likely to cause harm to the animal or inconvenience to the person who owns it or is in charge of it:

“Domestic animal” means—

(a) An animal of any of the following kinds when not in a wild state, namely, horses, cattle, sheep, and swine within the meaning of the Animals Act 1967, and poultry within the meaning of the Poultry Act 1968; and

(b) Any deer which is being lawfully kept in captivity within a deer proof fence, and any goat which is being lawfully kept in captivity within a goat proof fence, and any noxious animal within the meaning of the Noxious Animals Act 1956 which is being lawfully kept in captivity in a zoological garden, or in a manner or by a restraining device that will prevent its escape:

“Private land” means any land alienated from the Crown in fee simple or for any less estate or interest and any land, whether alienated from the Crown or not, of which any person is in actual occupation or in receipt of the rent or profits.

3. Trespass after warning to leave—Every person commits an offence against this Act and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars who wilfully trespasses on any place and neglects or refuses to leave that place after being warned to do so by the owner or any person in lawful occupation of the place, or any person acting under the express or implied authority of the owner or person in lawful occupation.

Cf. 1927, No. 35, s. 6A; 1952, No. 43, s. 3

4. Trespass after warning to stay off—(1) Where any person is trespassing or has trespassed on any place, any person in lawful occupation of that place, or any person acting under the express or implied authority of the person in lawful occupation of that place, may, at the time of the trespass or within a reasonable time thereafter, warn him to stay off that place.

(2) Any such warning may be given orally or by notice in writing delivered to that person or sent to the person by post in a registered letter at his usual place of abode in New Zealand.

(3) Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding two hundred dollars who, being a person who has been so warned to stay off any place, wilfully trespasses on that place at any time within six months after the giving of the warning:

Provided that it shall be a defence to a charge under this subsection if the defendant proves that—

- (a) The person by whom or on whose behalf the warning was given is no longer in lawful occupation of the place; or
- (b) It was necessary for the defendant to commit the trespass for his own protection or for the protection of some other person, or because of some emergency involving his property or the property of some other person.

5. Disturbance of domestic animals by trespassers with dog, firearm, or vehicle—Every person commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars who goes on to any private land without the authority of the occupier or other lawful authority, and—

- (a) By means of dog, firearm, or vehicle disturbs any domestic animal thereon; or
- (b) Wilfully or recklessly disturbs any domestic animal thereon.

Cf. 1967, No. 50, s. 103

6. Discharge of firearm on private land—(1) Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding one hundred dollars who, without reasonable cause,—

- (a) Discharges a firearm on any private land; or
- (b) Discharges a firearm from any place, vehicle, vessel, aircraft, or hovercraft into or across any private land.

(2) This section shall not apply to any act done by or with the authority of the owner or occupier of the land or other lawful authority.

7. Failure to shut gate—Every person commits an offence against this Act and is liable on summary conviction to a penalty not exceeding fifty dollars who—

- (a) Wilfully trespasses on any private land, and opens and leaves open a shut gate, or unfastens and leaves unfastened a fastened gate, on or leading to any land used for the farming of domestic animals; or
- (b) With intent to cause loss, annoyance, or harm to any other person, opens and leaves open a shut gate, or unfastens and leaves unfastened a fastened gate, or shuts an opened gate, on or leading to any land used for the farming of domestic animals.

8. Obligation to give name—(1) Where any person is found trespassing on any private land, the owner or any person in lawful occupation of the land, or the wife or husband or employee or agent of the owner or of any person in lawful occupation of the land, may demand particulars of that person's name and address. If there is reasonable ground to suppose that any particulars so given by him are false, the person demanding the particulars may require him to supply satisfactory evidence of the correctness thereof.

(2) If any such person refuses to give his name and address, or satisfactory evidence as to the correctness thereof, on being required to do so under this section, any member of the Police may caution him and, if he persists in such refusal, may arrest him without warrant.

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars who, being required under this section to give particulars of his name and address, fails to give those particulars, or supplies any false evidence with respect thereto.

9. Proceedings under sections 5, 6, 7, and 8 (3)—(1) Proceedings under sections 5, 6, and 7, and subsection (3) of section 8 of this Act shall be taken only on the information of the occupier of the land in respect of which the offence was committed.

(2) Notwithstanding anything to the contrary in section 37 of the Summary Proceedings Act 1957, where an information has been laid by the occupier of any land pursuant to subsection (1) of this section, any constable may appear at the hearing of the charge and conduct the proceedings on the informant's behalf.

10. Cancellation of firearms registration or permit—(1) Where any person is convicted by any Court of an offence against this Act, and it is proved that at the time when the offence was committed he was carrying a firearm or had a firearm with him, the Court, instead of or in addition to any other penalty, may do all or any of the following things:

- (a) Order the revocation of the person's registration under the Arms Act 1958 as the owner of any firearm:
- (b) Order the revocation of any permit issued to the person under the Arms Act 1958 for the possession of any firearm:

(c) Order that the person shall not carry a firearm, or shall be disqualified from being so registered or from obtaining such a permit, for such period not exceeding two years from the date of the conviction as the Court thinks fit.

(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding four hundred dollars who carries any firearm in contravention of any order of a Court made under this section.

11. Savings—Nothing in this Act shall apply to anything that any person is authorised to do by or under any other enactment or by law, or restrict the provisions of any of the following enactments and instruments:

- (a) Section 225 of the Mining Act 1926:
- (b) Section 23 of the Civil Aviation Act 1964:
- (c) Any enactment or instrument conferring a right of entry on any land.

12. Repeals—The following enactments are hereby consequently repealed:

- (a) Section 6A of the Police Offences Act 1927:
- (b) Section 3 of the Police Offences Amendment Act (No. 2) 1952:
- (c) Section 103 of the Animals Act 1967.

This Act is administered in the Department of Justice.
